



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 725X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Raleigh County, W. Va.

On August 22, 2012, CSX Transportation, Inc. (CSXT) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue rail service over approximately 13.5 miles of rail line between milepost WG 12.0 near Helen and milepost WG 25.5 at McVey in Raleigh County, W. Va. The line is owned by Norfolk Southern Railway Company (NSR) and has been operated by CSXT since 1996 under lease from NSR.¹ The line traverses U.S. Postal Service Zip Codes 25915, 25920, 25823, and 25827 and includes no stations.

CSXT states that the line does not contain any federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

CSXT points out that, in a letter dated May 16, 2011, NSR invoked its termination rights under the lease. According to CSXT, NSR may, upon a written 30-day notice, terminate the lease at its sole discretion provided that NSR offers trackage rights or another appropriate agreement to CSXT that would allow CSXT to continue operating

¹ See CSX Transp., Inc.—Lease & Operation Exemption—Norfolk & W. Ry., FD 32768 (ICC served Oct. 27, 1995). According to CSXT, the lease was amended in 1996.

between milepost WG 12.0 near Helen and milepost WG 23.6 at Pemberton, W. Va., for CSXT's own purposes and with its own trains and crews. In a decision served on August 10, 2012, pursuant to a written trackage rights agreement dated May 18, 2012, between the parties, CSXT was authorized to acquire overhead and local trackage rights from NSR to continue operating over the line of railroad, known as the Pemberton Line, between milepost WG 12.0 near Helen and milepost WG 23.6 at Pemberton, a distance of 11.6 miles.² CSXT states that NSR will resume providing rail service on the 13.5-mile line but that, pursuant to the lease, CSXT will retain the right and obligation to continue to provide common carrier service on the line between Helen and McVey until it receives discontinuance authority from the Board and consummates that authority.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 10, 2012.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than 10 days after service of a decision granting the petition for exemption.³ Each offer must be accompanied by the filing fee, which is

² See CSXT Transp., Inc.—Trackage Rights Exemption—Norfolk S. Ry., FD 35626 (STB served Aug. 10, 2012).

³ Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 1105.8.

currently set at \$1,600. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2012 Update, Ex Parte No. 542 (Sub-No. 20) (STB served July 27, 2012).

All filings in response to this notice must refer to Docket No. AB 55 (Sub-No. 725X) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001, and (2) Melanie B. Yasbin, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204. Replies to the petition are due on or before October 1, 2012.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: August 31, 2012.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

Derrick A. Gardner

Clearance Clerk

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